OFFICE OF THE CITY MANAGER

NO. LTC # 157-2012

LETTER TO COMMISSION

TO:

Mayor Matti Herrera Bower and Members of the City Commission

FROM:

Jorge M. Gonzalez, City Manager Affertuc

DATE:

June 12, 2012

SUBJECT: PARKING ENFORCEMENT/TOWING POLICY

The following serves to provide the Mayor and City Commission with information regarding the Parking Department's towing guidelines and policy for public tows. The attached memorandum was issued on March 30, 2012 and is attached for your reference.

Clearly, the impoundment of vehicles or "towing" is a necessary tool in the enforcement of parking. However, towing is the most drastic enforcement action that may be taken by an officer and it should be an action of last resort after reasonable efforts to identify the vehicle owner/operator have been exhausted as well as a prudent time frame has elapsed for the vehicle owner/operator to move the vehicle. The only exception is the apprehension of Scofflaws as these are habitual offenders that have had multiple opportunities to comply with the law but have chosen not to do so.

For purposes of the attached memorandum, towing actions are classified into four major categories, these include: (1) prohibited parking (public safety violations), (2) areas outside of established patrol zones (single family home neighborhoods and/or island communities); (3) restricted parking (reserved for an authorized user); and (4) scofflaws (court order for registrations with outstanding parking citations).

The guidelines and policy were developed to provide parking enforcement specialists (PES) with guidance and prudent criteria to determine if a vehicle should indeed be towed. The following highlights some of the benefits identified:

- 1. Towing Decision Redundancy A PES must receive a Supervisor's approval to tow a vehicle. Clearly, a "second set of eyes" to review the particular circumstances of each tow will result in better decision making when towing a vehicle as well as serve as a "checks and balance" for control purposes.
- 2. Towing Decision Documentation Supervisors are being equipped with cameras to document their approval. Although not referenced in the policy, photographic documentation is encouraged when no towing action is taken. Often times, citizens are just as adamant that a vehicle should be towed as those who claim it should not be towed. This photographic evidence is critical in documenting the decision regardless of the action taken.
- 3. "Quality vs Quantity" The approval to tow a vehicle (or not) lies with the supervisor. Of course, requiring a supervisor's approval is not as efficient as the traditional method of one employee (PES) making this determination, at their sole discretion. However, the use of towing as an enforcement tool should not be

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measured by the quantity of tows but rather by the quality of the decision to tow or not. As we know, Miami Beach is a world class city and international tourist destination. While towing is an essential enforcement tool, it should be applied judiciously and certainly only when prudent steps have been taken to cure the violation such as making reasonable efforts to notify the owner/operator of the vehicle and have them relocate the vehicle.

4. "Compliance vs Punitive" – Other parking enforcement strategies are intended to gain compliance and are not intended to be punitive with perhaps only one exception, "Scofflaws". Scofflaws are habitual offenders that have had multiple opportunities to pay or contest their outstanding parking citations and comply with the law; however, they have chosen not to do so resulting in a magistrate issuing an impoundment order for their vehicle. Other enforcement strategies currently in effect and are geared toward compliance include: (1) issuance of warnings in lieu of citations; (2) at parking meters, customers may pay for their parking prior to the issuance of a violation, if the PES has not yet issued the citation; and (3) requests by the PES to move a vehicle prior to the issuance of a citation. Certainly, these compliance oriented strategies should be applicable to both the issuance of citations as well as towing. In fact, even more so, as towing is an invasive tactic which leads to a greater degree of inconvenience, frustration, and expense.

GUIDELINES AND POLICY KEY POINTS:

PROHIBITED PARKING

Prior to any towing action, PESs shall contact a Supervisor and reference one or more of the following circumstances when towing a vehicle.

- Regular patrol on assigned zone/route or Customer/Citizen complaint;
- After an initial determination has been made by the PES that the vehicle may be eligible to be towed, it must be approved by a Supervisor, or Parking Enforcement Manager; and/or Assistant Parking Director.
- Requests for tows by the Police Department shall be subject to this policy.

SINGLE FAMILY HOME NEIGHBORHOODS/ISLANDS/AREAS OUTSIDE OF ESTABLISHED PATROL ZONES

- PESs shall make good faith efforts to locate the vehicle owner/operator prior to any enforcement action.
- PESs shall issue warnings unless a Supervisor approves further action.
- Supervisor must determine that an egregious and/or imminent danger to public safety is present and it may only be cured by the removal (tow) of the vehicle.
- PES shall provide a minimum of a 15 minute grace period to allow the vehicle to be moved by the owner/operator.
- Vehicles parked on narrow local roads and/or lightly traveled roads on the islands shall be honored unless: (1) there is less than ten (10) feet of clearance for passing purposes and/or (2) the vehicle is parked in a manner that poses an imminent danger to public safety.
- Any action, including those approved by a Supervisor, that may result in the towing of two (2) or more vehicles must be approved by either the Parking Enforcement Manager or Assistant Parking Director.

RESTRICTED PARKING - TOWING

The prohibited parking guidelines above shall be applicable for all restricted parking tows. The following specific restricted parking violations shall result in a tow for only complaint driven violations and only under the specific circumstances referenced below. Citizen complaints must be registered with the Parking/Code Enforcement "Dispatcher". Officers receiving complaints in the field must register the complaint with Dispatch via two-way radio following the established protocol for phone-in complaints.

- Commercial Loading Zones Maximum time limit violation only (posted regulations).
- Freight Loading Zones Maximum time limit violation only (posted regulations).
- Passenger Loading Zones Maximum time limit violation only (posted regulations).
- School Loading Zones Maximum time limit violation only (posted regulations).
- Restricted Residential Parking Zones (RPP) Parking without a valid permit (posted regulation). Note: During an MEP (Major Event Plan) this policy may be relaxed for a predetermined period, as needed, with a Supervisory approval.
- All Space Rentals and Valet Parking Ramps Established Vehicle Inventory Log/ Protocol.
- Motorcycle/Scooter Parking Spaces Posted regulations.

SCOFFLAWS/COURT ORDER

Vehicles confirmed by the Miami-Dade County Clerk of Courts as having an "impound order" issued by a magistrate shall be confirmed by the PES and Dispatcher. Upon confirmation the vehicle may be towed.

RESIDENTS' CONCERNS

The Transportation and Parking Committee (TPC) and the Flamingo Park Neighborhood Association (FPNA) held their respective meetings on June 4, 2012. Each respective entity held discussion items regarding the towing policy and each expressed their concerns with the policy. Residents who participate in various restricted residential zones in the City attended each respective meeting and voiced their concern with the additional layers instituted (complaint calls and supervisory approval) to effectuate a tow, leading to increased violations in their neighborhoods resulting in less parking opportunities for bona fide permit holders. Specifically, their concerns are that the policy is too burdensome to effectively enforce restricted residential parking zones. Subsequently, both the FPNA and TPC, respectively, approved resolutions recommending that the towing policy be rescinded. The TPC recommended that the entire towing policy be rescinded. The FPNA's recommendation was more specific to the restricted residential parking component of the towing policy and that it be rescinded.

It is important to note that while this is a legitimate concern, notwithstanding these two entities position on the policy, there is no evidence at this juncture to corroborate any adverse impact to parking availability within the restricted residential parking zones. The Parking Department will continue monitoring this aspect closely and may adjust and/or amend the policy as deemed appropriate or the Mayor and Commission may provide guidance regarding the policy.

PUBLIC PERCEPTION

A recurring theme with regard to towing complaints (public or private) is overzealous towing and specifically the swift and expedient manner by which a tow is carried out. This is exacerbated by the sheer volume of tows carried out as well as the fact that the

City receives a \$25 fee per tow. This may lead to a perception that the City encourages towing unnecessarily, or that there is no incentive to encourage compliance as opposed to tow a vehicle. The attached policy addresses this issue by requiring a supervisory approval (checks and balances), including documentation with photographic evidence as well as other guidelines and safeguards.

If you should have any further questions and/or inquiries regarding the towing guidelines/policy, please contact Saul Frances, Parking Director at 305.673.7000, extension 6483.

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PARKING DEPARTMENT

MEMORANDUM

TO:

All Parking Enforcement Personnel

FROM:

Saul Frances

Parking Director

DATE:

March 26, 2012

SUBJECT:

PARKING ENFORCEMENT/TOWING POLICY

POLICY STATEMENT:

The impoundment of vehicles is a necessary tool in the enforcement of parking. It is meant to be a tool of last resort. Typically, vehicle impoundments, more commonly referred to "tows or towing" are engaged for violations of prohibited parking (public safety violations); restricted parking (reserved for an authorized user); or a Scofflaw (court order for impoundment of vehicle(s) with outstanding parking citations.

Effective immediately, parking enforcement personnel must adhere to the following policies:

1. PROHIBITED PARKING - TOWING

Any and all prohibited parking violations, such as No Parking Anytime, Fire Lanes/Hydrants, sidewalks, crosswalks, blocking driveways, obstructing traffic, etc., may result in a tow only when the following guidelines and threshold requirements are met:

- Prior to any action, parking enforcement personnel shall contact the Dispatcher or a Supervisor and shall reference one or more of the following circumstances when towing a vehicle.
 - Regular patrol on assigned zone/route or Customer/Citizen complaint;
 - After an initial determination has been made by the Officer that the vehicle may be eligible to be towed, one of the following parking department personnel must approve the tow: POS (Parking Operations Supervisor), PEM (Parking Enforcement Manager); and/or Assistant Parking Director.
 - Requests for tows by the Police Department or Law Enforcement Officer (LEO) shall be subject to this policy. Failure to meet the criteria described herein shall be referred back to the Police Department for their action.

II. SINGLE FAMILY HOME NEIGHBORHOODS/ISLANDS/AREAS OUTSIDE OF ESTABLISHED PATROL ZONES

 Officers shall make good faith efforts to locate the vehicle owner/operator prior to any enforcement action.

- Officers shall issue warnings unless a supervisor approves further action.
- A supervisor is to respond to complaint calls regarding these areas and must determine that an egregious and/or imminent danger to public safety is present and it may only be cured by the removal (tow) of the vehicle.
- Officer shall provide a minimum of a 15 minute grace period to allow the vehicle to be moved by the owner/operator. This shall be tracked by the officer confirming arrival time on the scene and the time the vehicle is towed from the scene. Both actions shall be registered with Dispatch via two-way radio.
- Vehicles parked on narrow local roads and/or lightly traveled roads on the islands shall be honored unless: (1) there is less than ten (10) feet of clearance for passing purposes and/or (2) the vehicle is parked in a manner that poses an imminent danger to public safety.
- Any action, including those approved by a supervisor, that may result in the towing of two (2) or more vehicles for a service call or incident must be approved by either the Parking Enforcement Manager or Assistant Parking Director.

III. RESTRICTED PARKING - TOWING

Please refer to Section I, "Prohibited Parking – Towing" for all restricted parking tows such as restricted residential parking zones; disabled parking; commercial/passenger/school loading zones; motorcycle/scooter spaces; and any other clearly posted restrictions. However, the following specific restricted parking violations shall result in a tow for only complaint driven violations and only under the specific circumstances referenced below. Citizen complaints must be registered with the Parking/Code Enforcement "Dispatcher". Officers receiving complaints in the field must register the complaint with Dispatch via two-way radio following the established protocol for phone-in complaints.

- Commercial Loading Zones Maximum time limit violation only (posted regulations).
- Freight Loading Zones Maximum time limit violation only (posted regulations).
- Passenger Loading Zones Maximum time limit violation only (posted regulations).
- School Loading Zones Maximum time limit violation only (posted regulations).
- Restricted Residential Parking Zones (RPP) Parking without a valid permit (posted regulation). Note: The following shall be effective during MEP (Major Event Plan) which by definition is a high impact event affecting the City. Multiple complaint calls within one (1) hour for RPP violations within the same RPP zone shall require supervisory approval on the first three (3) valid tows. Supervisor approval for subsequent calls for service may be relaxed for a predetermined period, as needed, with supervisory approval.

- All Space Rentals and Valet Parking Ramps Established Vehicle Inventory Log/ Protocol.
- Motorcycle/Scooter Parking Spaces Posted regulations.

IV. SCOFFLAWS/COURT ORDERED TOW

 Vehicles confirmed by the Miami-Dade County Clerk of Courts as having an "impound order" shall be confirmed by the Officer and Dispatch. Upon confirmation the vehicle may be towed.

If you should have any questions, please contact your immediate supervisor.

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